

Senate Bill 412

By: Senators Jones of the 10th, Brown of the 26th, Johnson of the 1st, Seay of the 34th,
Chapman of the 3rd and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 7 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,
2 relating to motor vehicle sales and transfers, so as to change nomenclature from "air bag"
3 to "life bag"; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor
4 vehicles and traffic, so as to change nomenclature from "safety belt" to "life belt"; to amend
5 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
6 provisions relative to torts, so as to change nomenclature from "air bag" to "life bag"; to
7 repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 7 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to
11 motor vehicle sales and transfers, is amended by revising Code Section 16-9-111, relating
12 to installation or reinstallation of object in lieu of or other than air bag, as follows:

13 "16-9-111.

14 Any person who knowingly installs or reinstalls any object in lieu of and other than ~~an air~~
15 a life bag which was designed in accordance with federal safety regulations for the make,
16 model, and year of the vehicle as part of a vehicle inflatable restraint system shall be guilty
17 of a misdemeanor of a high and aggravated nature."

18 **SECTION 2.**

19 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic,
20 is amended by adding a new paragraph to Code Section 40-1-1, relating to definitions, to
21 read as follows:

22 "(24.1) 'Life belt' means that passive restraining device in motor vehicles formerly
23 known as 'seat belts' or 'safety belts.'"

SECTION 3.

Said title is further amended by revising Code Section 40-8-76, relating to safety belts required as equipment and safety restraints for children four years of age and younger, as follows:

"40-8-76.

(a) No new private passenger automobile manufactured after January 1, 1964, shall be sold to the general public in this state unless such automobile shall be equipped with two sets of safety life belts for the front seat thereof. The safety life belts may be installed by the manufacturer prior to delivery to the dealer, or they may be installed by the dealer.

(b)(1) Every driver who transports a child under six years of age in a passenger automobile, van, or pickup truck, other than a taxicab as defined by Code Section 33-34-5.1 or a public transit vehicle as defined by Code Section 16-5-20, shall, while such motor vehicle is in motion and operated on a public road, street, or highway of this state, provide for the proper restraint of such child in a child passenger restraining system appropriate for such child's height and weight and approved by the United States Department of Transportation under provisions of Federal Motor Vehicle Safety Standard 213 in effect on January 1, 1983, or at the time of manufacture, subject to the following specific requirements and exceptions:

(A) Any such child weighing at least 40 pounds may be secured by a lap belt when:

(i) The vehicle is not equipped with both lap and shoulder belts; or

(ii) Not including the driver's seat, the vehicle is equipped with one or more lap and shoulder belts that are all being used to properly restrain other children;

(B) Any such child shall be properly restrained in a rear seat of the motor vehicle consistent with the requirements of this paragraph. If the vehicle has no rear seating position appropriate for correctly restraining a child or all appropriate rear seating positions are occupied by other children, any such child may be properly restrained in a front seat consistent with the requirements of this paragraph;

(C) A driver shall not be deemed to be complying with the provisions of this paragraph unless any child passenger restraining system required by this paragraph is installed and being used in accordance with the manufacturer's directions for such system; and

(D) The provisions of this paragraph shall not apply when the child's parent or guardian either obtains a physician's written statement that a physical or medical condition of the child prevents placing or restraining him or her in the manner required by this paragraph. If the parent or guardian can show the child's height is over 4 feet and 9 inches, such child shall be restrained in a safety life belt as required in Code Section 40-8-76.1.

(2) Upon a first conviction of an offense under this subsection, the defendant shall be punished by a fine of not more than \$50.00, except in the case of a child who is five years of age, if the defendant shows to the court having jurisdiction of the case that a child passenger restraining system meeting the applicable requirements of this subsection has been purchased by him or her after the time of the offense and prior to the court appearance, the court may waive or suspend the fine for such first conviction. This exception shall apply until January 1, 2005. Upon a second or subsequent conviction of an offense under this subsection, the defendant shall be punished by a fine of not more than \$100.00. No court shall impose any additional fees or surcharges to a fine for such a violation. The court imposing a fine for any violation of this Code section shall forward a record of the disposition of the cases annually to the Department of Public Safety for the sole purpose of data collection on a county by county basis.

(c) Violation of this Code section shall not constitute negligence per se nor contributory negligence per se. Violation of subsection (b) of this Code section shall not be the basis for cancellation of coverage or increase in insurance rates.

(d) The provisions of this Code section shall not apply to buses, as defined in paragraph (7) of Code Section 40-1-1, used in the transport of children over four years of age until July 1, 2007, provided that the bus is operated by a licensed or commissioned child care facility, has a current annual transportation safety inspection certificate as required by the appropriate licensing body, and has evidence of being inspected for use by a child care facility. If the bus is not a school bus, as defined in paragraph (55) of Code Section 40-1-1, or a multifunction school activities bus, as defined in 49 C.F.R. 571.3(B), each child over four years of age and under six years of age shall be properly restrained by a ~~safety~~ life belt. Multifunction school activities buses, as defined in 49 C.F.R. 571.3(B), shall not be required to transport children five years of age in a child passenger restraining system."

SECTION 4.

Said title is further amended by revising Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

"40-8-76.1.

(a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle designed to carry ten passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for off-road use, provided that the term 'passenger vehicle' includes any sport utility vehicle and also includes pickup trucks for any occupant who is under 18 years of age.

(b) Each occupant of the front seat of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a ~~seat safety~~ life belt approved under Federal Motor Vehicle Safety Standard 208.

(c) The requirement of subsection (b) of this Code section shall not apply to:

(1) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour;

(2) A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a ~~seat safety~~ life belt;

(3) A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a ~~seat safety~~ life belt;

(4) A driver operating a passenger vehicle in reverse;

(5) A passenger vehicle with a model year prior to 1965;

(6) A passenger vehicle which is not required to be equipped with ~~seat safety~~ life belts under federal law;

(7) A passenger vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier;

(8) A passenger vehicle from which a person is delivering newspapers; or

(9) A passenger vehicle performing an emergency service.

(d) The failure of an occupant of a motor vehicle to wear a ~~seat safety~~ life belt in any seat of a motor vehicle which has a ~~seat safety~~ life belt or belts shall not be considered evidence of negligence or causation, shall not otherwise be considered by the finder of fact on any question of liability of any person, corporation, or insurer, shall not be any basis for cancellation of coverage or increase in insurance rates, and shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy, or operation of a motor vehicle.

(e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person failing to comply with the requirements of subsection (b) of this Code section shall not be guilty of any criminal act and shall not be guilty of violating any ordinance. A violation of this Code section shall not be a moving traffic violation for purposes of Code Section 40-5-57.

(2) A person failing to comply with the requirements of subsection (b) of this Code section shall be guilty of the offense of failure to wear a ~~seat safety~~ life belt and, upon conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to

1 a fine for such offense be assessed against a person for conviction thereof. The court
2 imposing such fine shall forward a record of the disposition of the case of failure to wear
3 a ~~seat safety~~ life belt to the Department of Driver Services.

4 (3) Each minor six years of age or older who is an occupant of a passenger vehicle shall,
5 while such passenger vehicle is being operated on a public road, street, or highway of this
6 state, be restrained by a ~~seat safety~~ life belt approved under Federal Motor Vehicle Safety
7 Standard 208. In any case where a minor passenger six years of age or older fails to
8 comply with the requirements of this paragraph, the driver of the passenger vehicle shall
9 be guilty of the offense of failure to secure a ~~seat safety~~ life belt on a minor and, upon
10 conviction thereof, may be fined not more than \$25.00. The court imposing such a fine
11 shall forward a record of the court disposition of the case of failure to secure a ~~seat safety~~
12 life belt on a minor to the Department of Driver Services.

13 (f) Probable cause for violation of this Code section shall be based solely upon a law
14 enforcement officer's clear and unobstructed view of a person not restrained as required
15 by this Code section. Noncompliance with the restraint requirements of this Code section
16 shall not constitute probable cause for violation of any other Code section."

17 **SECTION 5.**

18 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
19 provisions relative to torts, is amended by revising Code Section 51-1-47, relating to
20 immunity for disconnection of motor vehicle air bags, as follows:

21 "51-1-47.

22 The manufacturers, distributors, dealers, and sellers of a motor vehicle and those who, on
23 authorization and direction of the owner or lessee, lawfully install in a prudent and
24 workmanlike manner a switch to turn off the ~~air~~ life bag shall be immune from civil
25 liability for any injuries caused by the failure of an ~~air~~ life bag to deploy when the ~~air~~ life
26 bag has been disconnected, turned off, or otherwise disabled by the owner, lessee, or
27 operator of the motor vehicle or an agent of the owner or lessee of the motor vehicle."

28 **SECTION 6.**

29 All laws and parts of laws in conflict with this Act are repealed.